The outrageous case that this somehow reaches into retailers and merchants is highly offensive to me. It is the last thing I would ever suggest to my colleagues, that we somehow get into the business as Federal regulators of poring over florists and dentists and butchers and accountants and lawyers. Nothing could be further from the truth.

This goes after those businesses involved in financial services and products. It does so in a way that provides clarity, provides an opportunity for those institutions to be regulated, to know what rules they have to follow, and who is in charge of insisting that they meet those obligations.

So with that, I urge my colleagues to vote against this amendment. My hope is we will vote fairly soon. Again, we have hundreds of amendments that people want to be heard on, and we do not have all of the time in the world to deal with it. So we have to move on on these issues.

I think people understand the debate. They can read the amendment. I urge you to read 1027 in our bill, the section dealing with consumer protection, dealing with who is covered. Then we will have a vote.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DODD. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 789, the nomination of Larry Robinson to be Assistant Secretary of Commerce for Oceans and Atmosphere; that the nomination be confirmed and the motion to reconsider be considered made and laid upon the table; that any statements be printed in the RECORD; the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF COMMERCE

Larry Robinson, of Florida, to be Assistant Secretary of Commerce for Oceans and Atmosphere.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010—Continued

The PRESIDING OFFICER. The Senator form North Dakota is recognized.

Mr. DORGAN. Madam President, I will join my colleague from Connecticut in opposing the amendment on the floor if it weakens the underlying bill, but I do not come to speak about that proposal at the moment. I wanted to speak about an amendment I have discussed previously on the issue of too big to fail.

There is much yet to do on this subject of too big to fail. I recall, in a room just steps from here, on a Friday, I believe it was, the Treasury Secretary leaning over the lectern in a very stern way saying to the caucus that I was involved in, if within 3 days a three-page bill granting $700 billion to the Secretary of the Treasury, with which to provide funds to stabilize some of the biggest financial institutions in the country, if that did not come about, our economy could very well collapse completely.

I remember that moment and remember thinking that it was pretty bizarre that our country got to that point: that all of a sudden 1 day, after being told month after month that the economy was strong, the economy was in good shape, that there were some ripples and hiccups here and there, but things were on course and we had confidence in the strength of the economy, that we were now being told the economy may well collapse in days unless the Congress comes up with $700 billion.

Why was that the case? Because institutions that were so large in this country, at the top of the financial industry, were so important to the economy that their failure could very well result in failure of the entire American economy. That is what is called too big to fail.

Let me show a chart that shows the six largest financial institutions in the country and what has happened to them since 1995. This is their growth as a percentage of GDP. It shows that they are getting larger and larger and larger and much larger. Even during this period of near collapse, the same institutions that were judged too large to fail and judged to represent a grave risk to the entire economy have gotten larger than just too big to fail.

We had a vote yesterday, but that cannot be the end of this discussion about how to address too big to fail. The vote yesterday was rather Byzantine, as far as I was concerned. I was not someone who was a big fan of the $50 billion to be pre-funded for resolution of too-big-to-fail companies. But having said that, to decide that the $50 billion, which would come from the very institutions that are too big to fail, should be abolished, and that the funds instead would come from the FDIC, which are initially funds from the American taxpayer, made no sense to me. Then suggesting that it will be all right because the FDIC will be repaid with the sale of assets—oh, really? Well, firms that are too big to fail that are going to get in trouble in the future are not going to have very many assets. They are going to be in trouble because of dramatic amounts of overleverage, leverage that goes far beyond their ability to continue to do business. And when the firm comes tumbling down, I fail to see where assets are going to exist in substantial quantity to repay the taxpayer.

But that was yesterday. I did not support that. That was yesterday. This issue of creating a circumstance of early warning on too-big-to-fail firms is not satisfactory to me. The only way to resolve too big to fail is to abolish too big to fail. I mean abolish too big to fail. That means having firms that are not too big to fail, that will not cause a moral hazard or a grave risk to the entire economy should they fail.

Do you believe that is the case with this graph? Is there anything here that—as this graph shows, we have firms that are too big, far too big to fail. Is there anything here that is going to solve that in this bill? The answer is no. The only direct and effective way to address this is to decide, if you are, in fact, too big to fail, then there has to be some sort of divestiture or dissolution to bring that firm back down to a point where in size and scope such firm is not too big to fail and is not causing the kind of dramatic special risk to the country's economy that it would bring the economy down with it.

That is the only direct and effective solution. Is that radical? Well, I have an amendment that requires that if you are determined to be too big to fail, then we begin a process, over 2 years, of breaking away those parts that make you too big to fail. Is it a radical idea? I do not think so.

One-fourth of the Board of Governors of the Federal Reserve Board says we ought to do that. Richard Fisher, president of the Dallas Fed: Too big to fail is not a policy, it is a problem. Too big to fail means too big period. We ought to break them up.

Federal Reserve Bank of St. Louis, James Bullard, president and chief executive officer: I do kind of agree that too big to fail is too big to exist.

The economist, Joe Stiglitz, Nobel Prize winner: Too-big-to-fail banks have perverse incentives. If they gamble and win, they walk off with the proceeds. If they fail, taxpayers, pick up the tab.

Alan Greenspan—I seldom, if ever, agree with Alan Greenspan, but I have used a quote of his to describe where we are now. He was around sitting on his hands for a good many years while these problems developed, despite the fact that he had the authority to have avoided them. Then he has written a book acting as if he was exploring the surface of Mars while all of this went on.

But now he says: The notion that risks can be identified in a sufficiently timely manner to enable the liquidation of a large failing bank with minimum loss has proved untenable during this crisis, and I suspect in the future crises as well.

Simon Johnson, professor of entrepreneurship, the Sloan School: There is simply no evidence, and I mean no evidence, that society gains from banks